

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 9, 2013

SENATE BILL

No. 606

Introduced by Senator De León

February 22, 2013

An act to amend Section 11414 of the Penal Code, relating to harassment.

LEGISLATIVE COUNSEL'S DIGEST

SB 606, as amended, De León. Harassment: child or ward.

Under existing law, any person who intentionally harasses the child or ward of any other person because of that person's employment is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding \$1,000, or both. Under existing law, that crime is punishable by mandatory imprisonment in a county jail for not less than 5 days for a 2nd conviction, and by mandatory imprisonment in a county jail for not less than 30 days for a 3rd or subsequent conviction.

This bill would make a violation of the above provisions punishable by imprisonment in a county jail *for not less than 10 days but not exceeding one year* ~~or by imprisonment in a county jail for 16 months, or 2 or 3 years~~ for a first conviction. For a 2nd conviction, the bill would require a fine not exceeding \$10,000 and ~~either~~ imprisonment in a county jail for a period of not less than ~~5~~ 30 days but not exceeding one year ~~or by imprisonment in a county jail for 16 months, or 2 or 3 years~~. For a 3rd or subsequent conviction, the bill would require a fine not exceeding \$10,000 and ~~either~~ imprisonment in a county jail for a period of not less than ~~30~~ 60 days but not exceeding one year ~~or by imprisonment in a county jail for 16 months, or 2 or 3 years~~. The bill

would specify that harassment may include any actual or attempted recording of the child's image or voice without the written consent of the child's parent or legal guardian, by following the child's activities or lying in wait. The bill would specify that a violation of the above provisions would give rise to civil liability in an action for damages, as specified.

By increasing the punishment for a crime ~~and imposing new duties on local prosecutors~~, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11414 of the Penal Code is amended to
2 read:

3 11414. (a) Any person who intentionally harasses the child or
4 ward of any other person because of that person's employment
5 shall be punished by imprisonment in a county jail *for not less*
6 *than 10 days but* not exceeding one year ~~or by imprisonment~~
7 ~~pursuant to subdivision (h) of Section 1170.~~

8 (b) For purposes of this section, the following definitions shall
9 apply:

10 (1) "Child" and "ward" mean a person under 16 years of age.

11 (2) "Harasses" means knowing and willful conduct directed at
12 a specific child that seriously alarms, annoys, torments, or terrorizes
13 the child, and that serves no legitimate purpose, including, but not
14 limited to, any actual or attempted recording of the child's image
15 or voice, or both, without the written consent of the child's parent
16 or legal guardian, by following the child's activities or lying in
17 wait. The conduct must be such as would cause a reasonable child
18 to suffer substantial emotional distress, and actually cause the
19 victim to suffer substantial emotional distress.

20 (3) "Employment" means the job, vocation, occupation, or
21 profession of the parent or legal guardian of the child or ward.

1 (c) A second conviction under this section shall be punished by
2 a fine not exceeding ten thousand dollars (\$10,000) and by either
3 imprisonment in a county jail for not less than ~~five~~ 30 days but not
4 exceeding one year ~~or by imprisonment pursuant to subdivision~~
5 ~~(h) of Section 1170~~. A third or subsequent conviction under this
6 section shall be punished by a fine not exceeding ten thousand
7 dollars (\$10,000) and by either imprisonment in a county jail for
8 not less than ~~30~~ 60 days but not exceeding one year ~~or by~~
9 ~~imprisonment pursuant to subdivision (h) of Section 1170~~.

10 (d) A violation of this section shall also give rise to civil liability
11 in an action for damages in which the parent or legal guardian of
12 the child may seek actual damages, disgorgement of profits,
13 punitive damages, reasonable attorney's fees, and costs.

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.